



WOMEN CONSTRUCTION OWNERS & EXECUTIVES, USA

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July 6, 2009

Office of the Secretary
Department of Transportation
OST-2009
Sent via Facsimile 202-493-2251

Re: Comments on DBE program

Women Construction Owner & Executives, USA (WCOE) is a national association representing women owners and executives in the construction industry. Small business is the primary avenue through which women enter the business community. Small businesses must be encouraged.

WCOE supports contracting programs that:

- Advocate education, mentoring, and training as a means of achieving equal opportunity.
- Advocate enhanced opportunities for all qualified bidders to participate in the competitive bidding process.
- Advocate the utilization of goals to encourage equal access to bidding opportunities.

Women, as business owners, face additional barriers of socio-economic stereotyping, which inhibit their ability to obtain capital, contracts, bonding, and access to market opportunities. This is especially true in nontraditional fields, such as construction. WCOE advocates laws and regulations that help all small businesses, particularly those that will create a level playing field for women business owners.

WCOE appreciates the opportunity to provide comments to the DOT reading the DBE program. Our comments are listed below:

Counting Credit for Items Obtained by DBEs from non-DBE Sources

WCOE agrees with the current credit for items obtained by DBEs from non-DBE sources. Material and supplies purchased by DBEs for the fulfillment of a contract (whether from a DBE or non-DBE supplier) should be counted toward DBE participation. However, we agree that materials supplied or leased by the prime contractor to the DBE should NOT count for DBE credit. WCOE feels that allowing such a credit would undermine the intent of the DBE program and encourage prime contractors to create and use only "captive" DBEs (DBES who are set up only to perform work for certain prime contractors).

Contract Unbundling

Bundling has resulted in substantially fewer small businesses receiving federal contracts and the federal government is suffering from a reduced supplier base. American small business brings innovation, creativity, competition and lower costs to the federal table. When small businesses are excluded from federal opportunities through contract bundling, agencies, small businesses and taxpayers lose. Large bundled projects impose excessive bonding limits and require long term cash flow commitments which small businesses cannot meet. Bundling also creates an additional layer of management, adding cost without value to the taxpayer.

WCOE proposes that regulations and/or legislation require that construction contracts be unbundled when they exceed \$7 million (for Department of Defense), \$5 million (for Department of Energy, General Services Administration and NASA) and \$2 million (for all other agencies). If an agency proposes any bundled contract in excess of these amounts, the Procurement Center Representative and OSBDU offices must give approval prior to the contract solicitation being published.

Revised DBE Certification Application and Personal Net Worth Statement

The personal net worth standard of Small Disadvantaged Business was established over two decades ago. At \$750,000 (which includes retirement accounts) the threshold needs to be reevaluated, increased and indexed to address cost of living increases.

- Increase the personal net worth cap to \$3 million and index annually going forward.
- Remove retirement assets from an individual's personal net worth until the assets are actually withdrawn.
- Allow qualifying owners to engage in sound business practices.

Additionally, the U.S. DOT gross revenue cap places additional restrictions on women businesses in order for them to compete in the DBE outreach program. Women already face barriers and stereotypes that limit our ability to competitively bid and perform projects. The fact that many federal agencies still seem unable to meet the already low procurement goal for women owned businesses after a decade, is evidence that "business as usual" is not working. The gross revenue cap needs to be abolished. The SBA size standards should set the definition of a small business.

Certification Burdens

WCOE has always supported a strong certification process. As such, we support expanding the questions in the areas proposed by DOT. However, the assumption should NOT be made that male family members possess greater expertise or control of the business when other indicators point to the business being owned and run on a daily business by a women. WCOE has found that in nontraditional fields, such as construction, DOT agencies presume that women are "fronts" without providing an objective analysis. WCOE finds that women business owners are also expected to meet a higher threshold of "ownership and control" than their male minority counterparts. A minority owner of a business is not expected to sign every check, be on every construction project daily, and know every supplier. Rather the real indicators of ownership is who makes the real financial decisions about the business, the types of contracts to engage, and who deals with the problems in the business when things go wrong. We find that women business owners are expected to fully participate in EVERY aspect of the business. This is neither practical nor realistic in the business world.

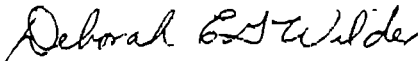
WCOE also supports one stop certification or reciprocity between agencies with similar certification standards. WCOE supports the establishment of one-step certification of woman-owned small business (WOSB) firms. Such certification must be recognized by all Federal, State and local agencies receiving any federal dollars. i.e. all DOT related agencies that are required to certify under 49 CFR Part 26 should recognize certification by other DOT grant recipient agencies. Providing a single certification process and/or reciprocity will save the government tax dollars through the elimination of multiple certification programs in multiple agencies. WOSB firms will save both time and money in complying with only one, as opposed to dozens of certifying agencies and departments. WCOE supports strong certification guidelines and opposes any type of self-certification process. WCOE applauds the legislation passed in 2004 which mandated all federal and state agencies recognize one-step certification for 8(a) contractors. We support expanding this effort for all certification processes for WOSBs.

Finally, national guidelines and standards need to be created for disparity studies. Too many companies claim the ability to perform disparity studies, yet those studies are routinely disqualified,

leaving women and minority owned businesses without any outreach program. These guidelines should be set by the Transportation Research Board of the National Academy of Sciences and provide clear guidance to recipients to ensure that disparity/availability studies are consistent between recipients.

Again, WCOE thanks you for the opportunity to provide these comments. Should you require additional information or testimony, please feel free to contact us.

Sincerely,



Deborah E.G. Wilder
Legislative Chair
Immediate Past President